



**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/086,821	05/29/98	LARA	ATV-004

LM02/0224

PATENT ADMINISTRATOR  
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EXAMINER

SALAD, A

ART UNIT

PAPER NUMBER

2757

DATE MAILED: 02/24/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/086,821**

Applicant(s)  
**Lara et al**

Examiner  
**Abdullahi Salad**

Group Art Unit  
**2757**



☒ Responsive to communication(s) filed on May 29, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-20 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4\$5

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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### **DETAILED ACTION**

This application has been reviewed. Original claims 1-20 are pending. The rejection cited stated below.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless--

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

2. Claims 1, 6, 12-15, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Colby et al U.S. Patent No. 6,006,264.

As per claim 1, 15 and 20, Colby et al discloses a system for distributing requests for web pages (resource) among two or more servers, comprising:

monitoring the web servers to determine if a predetermined condition (load metrics) exist at one or more of the web servers (see abstract, see also col. 5, lines 23-42, col. 6, line 63, and col. 9, lines 1-20);

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if the predetermined condition does exist at least one of the web servers, transferring at least one requests from the web server to another of the web server (see abstract, see also col. 5, lines 23-42, col. 6, line 63, and col. 9, lines 1-20).

In considering claims 12, 13, Colby et al discloses a system, wherein the transferring step comprises:

determining whether the web page (content) is included in a list of pages that have state (recently accessed or cached) (see col. 12, lines 14-50);

transferring only if the web page is not included in the list (see col.14, lines 5-65).

In considering claim 6, Colby et al further discloses a system, wherein the monitoring step comprises monitoring the system load of the host running the web server (see col. 6, lines 42-63).

In considering claims 9, 10, 11 and 16, Colby et al further discloses a system wherein the transferring step comprises transferring only if the request page is for one predetermined pages (frequently accessed pages or hot content or cached pages) (see col. 9, lines 1-20, col. 11, lines 20-60).

In considering claim 14, Colby et al further discloses a system wherein the predetermining condition comprises a failure (see col. 3, lines 37-45).

In considering claim 19, Colby et al further disclose a system including web server interface, wherein the interface directs the web server to transfer the at least one request (see fig. 1c).

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-5, 7, 8, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colby et al U.S. Patent No. 6,006,264 as applied to claims 1, 15 and 20 above, and further in view of .

In considering claims 2-5, 7, 8, 17 and 18, Colby et al discloses a system of distributing requests for web pages among two or more web servers substantially as claimed, but did not explicitly disclose the predetermined condition comprising monitoring the following parameters:

CPU utilization, memory utilization, request queue delay, and queue request length.

However, monitoring predetermined network traffic parameters to evaluate the health of a network is well known in the art. As known, in the art threshold parameters including CPU utilization, memory utilization, request queue delay, and queue request length are set, when one or more of these parameters are equaled or exceed the system causes the redirection of requests to the other web servers. Furthermore, Colby et al, discloses monitoring load metrics descriptive of the current load, network congestion etc (see col. 6, lines 42-67). Therefore, it would have been obvious to ordinary skill in the art to modify Colby et al by employing threshold parameter

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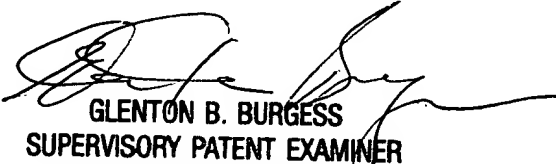
indicative current load of a web server in order to provide monitoring, redirection and dynamic overload protection.

### CONCLUSION

5. The prior art made of record and relied upon is considered pertinent to the applicant's disclosure.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abdullahi E. Salad** whose telephone number is **(703) 308-8441**. The examiner can normally be reached on **Monday to Friday from 8:30AM to 5:00PM**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Glen Burgess**, can be reached at **(703)305-4792**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703)305-3900**.

AES

2/7/00

  
GLENTON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
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